

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 4193

**ALBERT WONG
20843 Timberline Lane
Diamond Bar, CA 91789**

Pharmacist License No. RPH 48183

AND

**THE MEDICINE SHOPPE,
ALBERT WONG,
PHARMACIST-IN-CHARGE
12447 Central Avenue
Chino, CA 91710**

Pharmacy Permit No. PHY 48384

Respondent.

DECISION AND ORDER

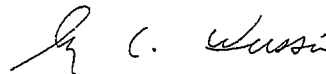
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on October 26, 2012.

It is so ORDERED on September 26, 2012.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STANLEY C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
3 MICHAEL BROWN
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8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 4193

12 **ALBERT WONG**
20843 Timberline Lane
13 Diamond Bar, CA 91789
Original Pharmacist License No. RPH 48183

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

14 Respondent,

15 AND

16 **THE MEDICINE SHOPPE,**
17 **ALBERT WONG,**
PHARMACIST -IN-CHARGE
18 12447 Central Avenue
Chino, CA 91710
19 Pharmacy Permit No. PHY 48384

20 Respondent.

21
22 In the interest of a prompt and speedy settlement of this matter, consistent with the public
23 interest and the responsibility of the Board of Pharmacy, Department of Consumer Affairs, the
24 parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will be
25 submitted to the Board of Pharmacy for approval and adoption as the final disposition of
26 Accusation No. 4193 filed against Respondents The Medicine Shoppe and Albert Wong.

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1 PARTIES

2 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
3 She brought this action solely in her official capacity and is represented in this matter by Kamala
4 D. Harris, Attorney General of the State of California, by Michael Brown, Deputy Attorney
5 General.

6 2. The Medicine Shoppe and Albert Wong (Respondents) are represented in this
7 proceeding by attorney George G. Braunstein, whose address is 11755 Wilshire Boulevard, Suite
8 2400, Los Angeles, California 90025.

9 3. On or about March 23, 2007, the Board of Pharmacy issued Original Permit No. PHY
10 48384 to The Medicine Shoppe; and Albert Wong (Respondent Medicine Shoppe). The
11 Pharmacy License was in full force and effect at all times relevant to the charges brought in
12 Accusation No. 4193. The Original Permit expired on November 24, 2010, and has not been
13 renewed.

14 4. On or about August 11, 1995, the Board of Pharmacy issued Original Pharmacist
15 License No. RPH 48183 to Albert Wong (Respondent Wong). The Original Pharmacist License
16 was in full force and effect at all times relevant to the charges brought in Accusation No. 4193
17 and will expire on February 28, 2013, unless renewed.

18 5. The Board records indicate Respondent Wong was the Pharmacist-in-Charge for
19 Respondent Pharmacy since March 23, 2007.

20 JURISDICTION

21 6. Accusation No. 4193 was filed before the Board of Pharmacy (Board), Department of
22 Consumer Affairs, and is currently pending against Respondents. The Accusation and all other
23 statutorily required documents were properly served on Respondents on November 21, 2011.
24 Respondents timely filed a Notice of Defense contesting the Accusation. A copy of Accusation
25 No. 4193 is attached as exhibit A and incorporated herein by reference.

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1 be inadmissible in any legal action between the parties, and the Board of Pharmacy shall not be
2 disqualified from further action by having considered this matter.

3 12. The parties understand and agree that facsimile copies of this Stipulated Settlement
4 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
5 effect as the originals.

6 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
7 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
8 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
9 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
10 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
11 writing executed by an authorized representative of each of the parties.

12 14. In consideration of the foregoing admissions and stipulations, the parties agree that
13 the Board may, without further notice or formal proceeding, issue and enter the following
14 Disciplinary Order:

15 **ORDER**

16 IT IS HEREBY ORDERED that Citation Nos. CI 2008 39565 and CI 2009 42768, issued
17 on or about January 29, 2010 to Respondent Medicine Shoppe and Respondent Wong,
18 respectively, as well as the abatements and fines ordered by those Citations, are withdrawn and/or
19 dismissed.

20 IT IS HEREBY ORDERED that Respondent Medicine Shoppe is jointly and responsible
21 for the truth of each and every charge and allegation in Accusation No. 4193. Respondent
22 Medicine Shoppe is jointly, responsible and liable for the civil penalties to the Board of Pharmacy
23 in the amount of \$36,000.00 (Thirty Six Thousand Dollars).

24 **DISCIPLINARY ORDER**

25 IT IS HEREBY ORDERED that Original Pharmacist License No. RPH 48183 issued to
26 Respondent Wong is revoked. However, the revocation is stayed and Respondent Wong is placed
27 on probation for five (5) years on the following terms and conditions.

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1 **TERMS APPLICABLE TO RESPONDENT WONG**

2 **1. Payment of Civil Penalties**

3 Respondent Wong shall pay civil penalties to the Board of Pharmacy in the amount and on
4 such terms as specified below. Respondent Wong understands and agrees that such civil penalties
5 are administrative fines pursuant to 11 U.S.C. § 523(a)(7), and as such are not dischargeable in
6 bankruptcy. Respondent Wong further understands and agrees that the filing of bankruptcy by
7 Respondent Wong shall not relieve Respondent of the obligation to pay the balance of the civil
8 penalties to the Board. Respondent Wong shall be liable for payment to the Board of \$36,000.00
9 (Thirty Six Thousand Dollars) in civil penalties. Respondent Wong shall pay \$3,000.00 (Three
10 Thousand Dollars) on or before the effective date of this decision, and shall thereafter make eleven
11 (11) quarterly payments of \$3,000.00 (Three Thousand Dollars) every ninety (90) days until the
12 entire balance is paid in full. Respondent Wong may pay the full remaining balance due at any
13 time, and may make extra payments. Aside from such expedited payment, there shall be no
14 deviation from this schedule absent prior written approval by the Board of Pharmacy or its
15 designee. Failure to pay the civil penalties by the deadlines as directed shall be considered a
16 violation of probation.

17 Further, absent prior written approval by the Board or its designee, Respondent Wong may
18 not successfully complete probation until this amount is paid in full. Each Respondent is
19 responsible for payment of the full amount and neither may claim to owe only a portion or a
20 share.

21 **2. Community Services Program - Testimonial**

22 Respondent Wong has authored a letter describing his incentives to participate and his level
23 of participation in filling and/or dispensing internet prescriptions, and detailing the consequences
24 of this participation for him, his family, the public health, and the profession, what he has learned
25 from this experience, and what he would advise others who are approached to fill or dispense
26 internet prescriptions. The letter is attached hereto as Exhibit "B", is incorporated herein by
27 reference, and is part of Respondent Wong's public record of discipline with the Board of
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1 Pharmacy. The Board of Pharmacy may print, reprint, quote, or make other use of this letter in its
2 communications and/or on its website.

3 Further, upon provision of reasonable notice, Respondent Wong shall appear for and take
4 part in a video recording of Respondent Wong reading the letter, the video message shall be
5 completed within the first year of probation. The video recording shall be similarly subject to use
6 by the Board of Pharmacy in its communications and/or on its website. Failure by Respondent
7 Wong, upon reasonable notice, to timely appear for and participate in such videotaping shall be
8 considered a violation of probation.

9 **3. Obey All Laws**

10 Respondent Wong shall obey all state and federal laws and regulations. Respondent Wong
11 shall report any of the following occurrences to the board, in writing, within seventy-two (72)
12 hours of such occurrence:

- 13 • an arrest or issuance of a criminal complaint for violation of any provision of the
14 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
substances laws
- 15 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
16 criminal complaint, information or indictment
- 17 • a conviction of any crime
- 18 • discipline, citation, or other administrative action filed by any state or federal agency
19 which involves either of Respondents' licenses or which is related to the practice of
pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging
for any drug, device or controlled substance.

20 Failure to timely report such occurrence(s) shall be considered a violation of probation.

21 **4. Report to the Board**

22 Respondent Wong shall report to the board quarterly, on a schedule as directed by the
23 Board of Pharmacy or its designee. The report shall be made either in person or in writing, as
24 directed. Among other requirements, Respondent Wong shall state in each report under penalty
25 of perjury whether there has been compliance with all the terms and conditions of probation.
26 Failure to submit timely reports in a form as directed shall be considered a violation of probation.
27 Any period of delinquency in submission of reports as directed may be added to the total period
28 of probation. Moreover, if the final probation report is not made as directed, the probation shall

1 be automatically extended until such time as the final report is made and accepted by the Board of
2 Pharmacy.

3 **5. Interview with the Board**

4 Upon receipt of reasonable prior notice, Respondent Wong shall appear in person for
5 interviews with the Board of Pharmacy or its designee, at such intervals and locations as are
6 determined by the Board of Pharmacy or its designee. The owner or officer of Respondent
7 Pharmacy shall make the appearance on behalf of Respondent Medicine Shoppe. Failure to
8 appear for any scheduled interview without prior notification to the Board of Pharmacy staff, or
9 failure to appear for two (2) or more scheduled interviews during the period of probation, shall be
10 considered a violation of probation.

11 **6. Cooperate with Board Staff**

12 Respondent Wong shall cooperate with the Board of Pharmacy's inspection program and
13 with the Board of Pharmacy's monitoring and investigation of Respondents' compliance with the
14 terms and conditions of their probation(s). Failure to cooperate shall be considered a violation of
15 probation.

16 **7. Reimbursement of Board Costs**

17 Reimbursement of costs per Business and Professions Code section 125.3 is waived.

18 **8. Probation Monitoring Costs**

19 Respondent Wong shall pay all costs associated with probation monitoring as determined
20 by the Board of Pharmacy each and every year of probation. Such costs shall be payable to the
21 Board of Pharmacy on a schedule as directed by the Board of Pharmacy or its designee. Failure
22 to pay such costs by the deadline as directed shall be considered a violation of probation.

23 **9. Status of License**

24 Respondent Wong at all times while on probation, maintain an active, current license with
25 the Board of Pharmacy, including any period during which suspension or probation is tolled.
26 Failure to maintain an active, current license shall be considered a violation of probation. If
27 Respondent Wong's license expires or is cancelled by operation of law or otherwise at any time
28 during the period of probation, including any extensions thereof due to tolling or otherwise, upon

1 renewal or reapplication that Respondent's license shall be subject to all terms and conditions of
2 this probation not previously satisfied.

3 **10. License Surrender While on Probation/Suspension**

4 Following the effective date of this decision, should Respondent Wong cease to practice
5 due to retirement or health, or be otherwise unable to satisfy the terms and conditions of
6 probation, that Respondent Wong may tender its license to the Board of Pharmacy for surrender.
7 The Board of Pharmacy or its designee shall have the discretion whether to grant the request for
8 surrender or take any other appropriate and reasonable action. Upon formal acceptance of the
9 surrender of the license, Respondent Wong will no longer be subject to the terms and conditions
10 of probation. This surrender constitutes a record of discipline and shall become a part of the
11 Respondent Wong's license history with the Board of Pharmacy.

12 Within ten (10) days of notification by the Board of Pharmacy that the surrender is
13 accepted, Respondent Wong shall relinquish its pocket and wall licenses to the Board of
14 Pharmacy. Upon surrender, Respondent Wong may not reapply for any license from the Board of
15 Pharmacy for three (3) years from the effective date of the surrender. Respondent Wong shall
16 meet all requirements applicable to the license sought as of the date of submitted to the Board of
17 Pharmacy, including any outstanding costs.

18 **11. Violation of Probation**

19 If Respondent Wong has not complied with any term or condition of probation, the Board
20 of Pharmacy shall have continuing jurisdiction over the Respondent Wong, and probation shall
21 automatically be extended, until all terms and conditions have been satisfied or the Board of
22 Pharmacy has taken other action as deemed appropriate to treat the failure to comply as a
23 violation of probation, to terminate probation, and to impose the penalty that was stayed.

24 If Respondent Wong violates probation in any respect, the Board of Pharmacy, after giving
25 Respondent Wong notice and an opportunity to be heard, may revoke probation as to that
26 Respondent and carry out the disciplinary order that was stayed. If a petition to revoke probation
27 or an accusation is filed during probation, the Board of Pharmacy shall have continuing
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1 jurisdiction and the period of probation shall be automatically extended until the petition to
2 revoke probation or accusation is heard and decided.

3 **12. Completion of Probation**

4 Upon written notice by the Board of Pharmacy or its designee indicating successful
5 completion of probation, the successfully-completing Respondent Wong's license will be fully
6 restored.

7 **13. Continuing Education**

8 Respondent Wong shall provide evidence of efforts to maintain skill and knowledge as a
9 Pharmacist as directed by the Board of Pharmacy or its designee.

10 **14. Notice to Employers**

11 During the period of probation, Respondent Wong shall notify all present and prospective
12 employers of the decision in Accusation No. 4193 and the terms, conditions, and restrictions
13 imposed on Respondent by the decision, as follows:

14 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
15 Respondent Wong undertaking any new employment, Respondent Wong shall cause his direct
16 supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during
17 Respondent's tenure of employment) and owner to report to the Board of Pharmacy in writing
18 acknowledging that the listed individual(s) has/have read the decision in Accusation No. 4193
19 and all the terms and conditions imposed thereby. It shall be Respondent Wong's responsibility to
20 ensure that his employer(s) and/or supervisor submit the timely acknowledgments to the Board of
21 Pharmacy. If Respondent Wong works for or is employed by or through a pharmacy employment
22 service, Respondent Wong must notify his direct supervisor, pharmacist-in-charge, and owner at
23 every entity licensed by the Board of Pharmacy of the terms and conditions of the decision in
24 Accusation No. 4193 in advance of Respondent commencing work at each licensed entity. A
25 record of this notification must be provided to the Board of Pharmacy upon request.

26 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
27 (15) days of Respondent Wong undertaking any new employment by or through a pharmacy
28 employment service, Respondent Wong shall cause his direct supervisor with the pharmacy

1 employment service to report to the Board of Pharmacy in writing acknowledging he/she has read
2 the decision in Accusation No. 4193 and the terms and conditions imposed thereby. It shall be
3 Respondent Wong's responsibility to ensure his employer(s) and/or supervisor(s) submit timely
4 acknowledgment(s). "Employment" within the meaning of this provision shall include any full-
5 time, part-time, temporary, relief or pharmacy management service as a pharmacist or any
6 position for which a pharmacist license is a requirement or criterion for employment, whether the
7 respondent is an employee, independent contractor or volunteer.

8 Failure to timely notify present or prospective employer(s) or to cause those employer(s) to
9 submit timely acknowledgments to the Board of Pharmacy shall be considered a violation of
10 probation.

11 **15. Notification of a Change in Employment, Name, Address, or Phone**

12 Respondent Wong shall notify the board in writing within ten (10) days of any change of
13 employment. Said notification shall include the reasons for leaving, the address of the new
14 employer, the name of the supervisor and owner, and the work schedule. Respondent Wong shall
15 further notify the board in writing within ten (10) days of a change in name, residence address,
16 mailing address, or phone number.

17 Failure to timely notify the Board of Pharmacy of any change in employer, name, address
18 or phone number shall be considered a violation of probation.

19 **16. Tolling of Probation**

20 Except during periods of suspension, Respondent Wong shall at all times while on
21 probation, be employed as a pharmacist in California for a minimum of forty (40) hours per
22 calendar month. Any month during which this minimum is not met shall toll the period of
23 probation, i.e., the period of probation shall be extended by one month for each month during
24 which this minimum is not met. During any such period of tolling of probation, Respondent
25 Wong must nonetheless comply with all terms and conditions of probation.

26 Should Respondent Wong, regardless of residency, for any reason (including vacation)
27 cease practicing as a pharmacist for a minimum of forty (40) hours per calendar month in
28 California, Respondent Wong must notify the Board of Pharmacy in writing within ten (10) days

1 of the cessation of practice, and must further notify the Board of Pharmacy in writing within ten
2 (10) days of the resumption of practice. Any failure to provide such notification(s) shall be
3 considered a violation of probation.

4 It is a violation of probation for Respondent Wong's probation to remain tolled pursuant to
5 the provisions of this condition for a total period, counting consecutive and non-consecutive
6 months, exceeding thirty-six (36) months.

7 "Cessation of practice" means any calendar month during which Respondent is not
8 practicing as a pharmacist for at least forty (40) hours, as defined by Business and
Professions Code section 4000 et seq .

9 "Resumption of practice" means any calendar month during which Respondent
10 practices as a pharmacist for at least forty (40) hours as a pharmacist as defined by
Business and Professions Code section 4000 et seq.

11 **17. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as**
12 **Designated Representative-in-Charge, or Serving as a Consultant**

13 During the period of probation, respondent shall not supervise any intern pharmacist, be the
14 pharmacist-in-charge or designated representative-in-charge of any entity licensed by the board
15 nor serve as a consultant unless otherwise specified in this order. Assumption of any such
16 unauthorized supervision responsibilities shall be considered a violation of probation.

17 **ACCEPTANCE**

18 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
19 discussed it with my attorney, George G. Braunstein. I understand the stipulation and the effect it
20 will have on my Pharmacy License and Original Pharmacist License. I enter into this Stipulated
21 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
22 bound by the Decision and Order of the Board of Pharmacy.

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2 DATED: 2/29/123 THE MEDICINE SHOPPE; ALBERT WONG
4 By: ALBERT WONG
5 Respondent6
7 DATED: 2/29/128 ALBERT WONG
9 Respondent10 I have read and fully discussed with Respondents the terms and conditions and other
11 matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form
12 and content.

13 DATED: _____

14 George G. Braunstein
15 Law Offices of George G. Braunstein
16 Attorney for Respondents17 ENDORSEMENT18 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
19 submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

20 Dated: January __, 2012

21 Respectfully submitted,

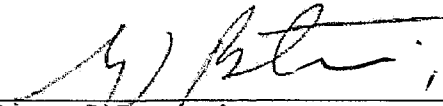
22 KAMAILA D. HARRIS
23 Attorney General of California
24 GLORIA A. BARRIOS
25 Supervising Deputy Attorney General26 MICHAEL BROWN
27 Deputy Attorney General
28 Attorneys for ComplainantLA2011600508
60685461.doc

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DATED: _____
THE MEDICINE SHOPPE; ALBERT WONG
By: ALBERT WONG
Respondent

DATED: _____
ALBERT WONG
Respondent

I have read and fully discussed with Respondents the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

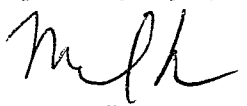
DATED: 2-27-2012 
George G. Braunstein
Law Offices of George G. Braunstein
Attorney for Respondents

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated: ~~January~~ ^{March} 1, 2012

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
GLORIA A. BARRIOS
Supervising Deputy Attorney General


MICHAEL BROWN
Deputy Attorney General
Attorneys for Complainant

LA2011600508
60685461.doc

Exhibit A

Accusation No. 4193

1 KAMALA D. HARRIS
Attorney General of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General.
3 MICHAEL BROWN
Deputy Attorney General
4 State Bar No. 231237
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7 *Attorneys for Complainant*

8
9 **BEFORE THE
BOARD OF PHARMACY
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11 In the Matter of the Accusation Against:

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12 **ALBERT WONG**
20843 Timberline Lane
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Original Pharmacist License No. RPH 48183

ACCUSATION

14 Respondent.

15 AND

16 **THE MEDICINE SHOPPE,**
17 **ALBERT WONG,**
18 **PHARMACIST -IN-CHARGE**
12447 Central Avenue
Chino, CA 91710
19 Pharmacy Permit No. PHY 48384

20 Respondent.

21
22 Complainant alleges:

23 **PARTIES**

24 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
25 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

26 2. On or about March 23, 2007, the Board of Pharmacy issued Original Permit No. PHY
27 48384 to The Medicine Shoppe; and Albert Wong (Respondent Pharmacy). The Original Permit
28 expired on November 24, 2010, and has not been renewed.

3. On or about August 11, 1995, the Board of Pharmacy issued Original Pharmacist License Number RPH 48183 to Albert Wong (Respondent Wong). The Original Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on February 28, 2013, unless renewed.

4. The Board records indicate Respondent Wong was the Pharmacist-in-Charge for Respondent Pharmacy since March 23, 2007.

JURISDICTION

5. This Accusation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

6. Section 4005 of the Code provides that the Board may adopt rules and regulations, as may be necessary for the protection of the public. Included therein shall be the right to adopt rules and regulations as follows: for the proper and more effective enforcement and administration of this chapter; pertaining to the practice of pharmacy; and pertaining to establishments wherein any drug or device is compounded, prepared, furnished, or dispensed.

7. Section 4011 of the Code provides that the Board shall administer and enforce both the Pharmacy Law (Bus. & Prof. Code, § 4000 et seq.) and the Uniform Controlled Substances Act (Health & Safety Code, § 11000 et seq.).

8. Section 4113(c) of the Code states:

“The pharmacist-in-charge shall be responsible for a pharmacy's compliance with all state and federal laws and regulations pertaining to the practice of pharmacy.”

9. Section 4300(a) of the Code provides that every license issued by the Board may be suspended or revoked.

10. Section 4402(a) of the Code provides that any pharmacist license that is not renewed within three years following its expiration may not be renewed, restored, or reinstated and shall be canceled by operation of law at the end of the three-year period.

11. Section 4402(e) of the Code provides that any other license issued by the Board may be canceled by the Board if not renewed within 60 days after its expiration, and any license

1 canceled in this fashion may not be reissued but will instead require a new application to seek
2 reissuance.

3 12. Section 118, subdivision (b), of the Code provides that the
4 suspension/expiration/surrender/cancellation of a license shall not deprive the
5 Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period
6 within which the license may be renewed, restored, reissued or reinstated

7 STATUTORY AND REGULATORY PROVISIONS

8 13. Section 4301 of the Code states:

9 "The board shall take action against any holder of a license who is guilty of unprofessional
10 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.
11 Unprofessional conduct shall include, but is not limited to, any of the following:

12 "(j) The violation of any of the statutes of this state, or any other state, or of the United
13 States regulating controlled substances and dangerous drugs.

14 ...

15 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
16 violation of or conspiring to violate any provision or term of this chapter or of the applicable
17 federal and state laws and regulations governing pharmacy, including regulations established by
18 the board or by any other state or federal regulatory agency."

19 14. Section 4067(a) of the Code provides, in pertinent part, that no person or entity shall
20 dispense or furnish, or cause to be dispensed or furnished, dangerous drugs or dangerous devices,
21 as defined in Section 4022 of the Code, on the Internet for delivery to any person in this state
22 without a prescription issued pursuant to a good faith prior examination of a human or animal for
23 whom the prescription is meant if the person or entity either knew or reasonably should have
24 known that the prescription was not issued pursuant to a good faith prior examination of a human
25 or animal, or if the person or entity did not act in accordance with Section 1761 of Title 16 of the
26 California Code of Regulations. A "good faith prior examination" includes the requirements for a
27 physician and surgeon in Section 2242 of the Code and the requirements for a veterinarian in
28 Section 2032.1 of Title 16 of the California Code of Regulations.

1 15. California Code of Regulations, title 16, section 1761, states:

2 "(a) No pharmacist shall compound or dispense any prescription which contains any
3 significant error, omission, irregularity, uncertainty, ambiguity or alteration. Upon receipt of any
4 such prescription, the pharmacist shall contact the prescriber to obtain the information needed to
5 validate the prescription.

6 (b) Even after conferring with the prescriber, a pharmacist shall not compound or dispense
7 a controlled substance prescription where the pharmacist knows or has objective reason to know
8 that said prescription was not issued for a legitimate medical purpose."

9 16. Section 4067(b) of the Code provides, in pertinent part, that a violation of Code
10 section 4067 subjects a person or entity to either a fine of up to twenty-five thousand dollars
11 (\$25,000) per occurrence pursuant to a citation issued by the board or a civil penalty of twenty-
12 five thousand dollars (\$25,000) per occurrence.

13 17. Section 125.3 of the Code provides, in pertinent part, that the
14 Board/Registrar/Director may request the administrative law judge to direct a licentiate found to
15 have committed a violation or violations of the licensing act to pay a sum not to exceed the
16 reasonable costs of the investigation and enforcement of the case.

17 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

18 18. Section 4021 of the Code provides that a "controlled substance" means any substance
19 listed in Schedules I through V contained in Health and Safety Code section 11053 et seq.

20 19. Section 4022 of the Code states:

21 "Dangerous drug" or "dangerous device" means any drug or device unsafe
for self-use in humans or animals, and includes the following:

22 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing
without prescription," "Rx only," or words of similar import.

23 (b) Any device that bears the statement: "Caution: federal law restricts this device
24 to sale by or on the order of a _____," "Rx only," or words of similar import, the
blank to be filled in with the designation of the practitioner licensed to use or order
use of the device.

25 (c) Any other drug or device that by federal or state law can be lawfully dispensed
only on prescription or furnished pursuant to Section 4006.

26 20. Hydrocodone is the generic name for Vicodin, a combination narcotics used to
27 relieve moderate to severe pain, and is a Schedule III controlled substance as listed in Health and
28 Safety Code section 11056(e)(4).

1 21. **Alprazolam**, also known under the brand name **Xanax**, is a Schedule IV controlled
2 substance as designated by Health and Safety Code section 11057(d)(1), and is a drug of the
3 benzodiazepine class used to treat anxiety and panic attacks.

4 22. **Temazepam** is generic for **Restoril**, is a Schedule IV controlled substance under
5 Health and Safety Code section 11057(d)(29) and a dangerous drug per Business and Professions
6 Code section 4022. It is used in treatment of insomnia.

7 23. **Fiorinal** with **Codeine** is a brand name for a compound of **aspirin**, **caffeine**,
8 **butalbital**, a Schedule III controlled substance as designated by Health and Safety Code section
9 11056(c)(3) and a dangerous drug as designated by Business and Professions Code section 4022,
10 and codeine, a Schedule III controlled substance as designated by Health and Safety Code section
11 11056(e)(2) and a dangerous drug as designated by Business and Professions Code section 4022.
12 **Butalbital** is a non-narcotic analgesic drug often prescribed as a treatment for migraines or
13 tension headaches. **Codeine** is a narcotic pain reliever and muscle relaxant.

14 24. **Cyclobenzaprine**, is generic for **Flexeril**, a dangerous drug as designated by
15 Business and Professions Code section 4022. It is a muscle relaxant drug.

16 **CAUSES FOR DISCIPLINE, AS TO BOTH RESPONDENTS**

17 FIRST CAUSE FOR DISCIPLINE

18 (Improper Dispensing or Furnishing Dangerous Drugs on the Internet)

19 25. Respondent are subject to discipline under Code section 4067(a), in that between on
20 or about January 22, 2008 and March 09, 2009, Respondents dispensed, furnished, or caused to
21 be dispensed or furnished, dangerous drugs, as defined in Code section 4022, on the Internet for
22 delivery to persons in the state of California without a prescription issued pursuant to a good faith
23 prior examination, and the Respondent knew or reasonably should have known that the
24 prescription was not issued pursuant to a good faith prior examination, or the Respondent did not
25 act in accordance with Section 1761 of Title 16 of the California Code of Regulations:

26 a. Dispensing or furnishing one hundred eighty-six (186) prescriptions for dangerous
27 drugs, including **Hydrocodone/Acetaminophen (APAP)**, **Alprazolam**, **Temazepam**,
28 **Aspirin/Butalbital/Caffeine/Codeine** and **Cyclobenzaprine**.

1 SECOND CAUSE FOR DISCIPLINE

2 (Dispensing of Erroneous or Uncertain Prescription(s))

3 26. Respondent are each and severally subject to discipline under section(s) 4301(j), (o),
4 and/or 4113(c) of the Code, and/or California Code of Regulations, title 16, section 1761, in that
5 between on or about January 22, 2008 and March 09, 2009, Respondents dispensed, attempted to
6 dispense, assisted or abetted the dispensing of, and/or conspired to dispense, prescription(s)
7 containing one or more significant errors, omissions, irregularities, uncertainties, ambiguities or
8 alterations, without contacting the prescriber to validate the prescription, and/or having objective
9 reason(s) to know that the prescription(s) was/were not issued for a legitimate medical purpose.

10 PRAYER

11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
12 and that following the hearing, the Board of Pharmacy issue a decision:

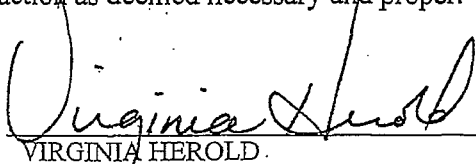
13 1. Revoking or suspending Pharmacy License No. PHY, 48384 issued to The Medicine
14 Shoppe; and Albert Wong (Respondent Pharmacy);

15 2. Revoking or suspending Original Pharmacist License Number RPH 48183 issued to
16 Albert Wong (Respondent Wong);

17 3. Ordering Respondent Pharmacy and Respondent Wong to jointly and severally pay
18 the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case,
19 pursuant to Business and Professions Code section 125.3;

20 4. Taking such other and further action as deemed necessary and proper.

21
22 DATED: 11/9/11


23 VIRGINIA HEROLD
24 Executive Officer
25 Board of Pharmacy
26 Department of Consumer Affairs
27 State of California
28 Complainant

26 LA2011600508
27 60685876.doc
28

Exhibit B

Letter by Respondents

ALBERT WONG

Pharmacist
20843 Timberline Lane
Diamondbar, California 91789

February 29, 2012

To My fellow Pharmacist Colleagues:

I am writing this letter to share with you my experience of running my own pharmacy. I always wanted to own and operate my own pharmacy, and I responded to a franchise solicitation from "The Medicine Shoppe." They offered to loan me money to secure a lease and to build out of the pharmacy store, and help me get started. I did not consult a lawyer or accountant to analyze the proposals. Shortly after opening up my own franchise pharmacy with "The Medicine Shoppe," I soon realize that this was the biggest mistake I ever made in my pharmacy career. First of all, I had personally guaranteed all the loans for the franchise of "The Medicine Shoppe." I never consulted a financial expert to pencil out realistic revenue projections which would include debt service for this dream I had of owning and running my own pharmacy. The royalty fees or franchise fees were 5% of gross sales. Furthermore, I had accumulated huge amount of loans for the build out of the store. The main creditors were the wholesaler, the landlord, vendors, royalties fees from the franchisor, and the business loans from the Medicine Shoppe. At some point, I realized that if business didn't pick up, I would be in serious jeopardy of defaulting on my loans, which I had never done before. I became a sitting duck for people to approach me for ways in "legally increase my revenue."

I put myself in an awkward financial position that created unrealistic revenue expectations from a business just starting out. These types of financial pressures created a perfect environment for disreputable people to prey on me. One day I was contacted by John Maddaloni, an officer of "Advance Medical Group." He told me that they were looking for a few pharmacies to help them out and that their current pharmacy was extremely busy and could not fulfill all their prescriptions. The first several times he contacted me, I told him I wasn't interested, but I made the mistake of asking him details of his operations. When I learned that most of the prescriptions were for controlled substances, I immediately told him I wasn't interested. He kept contacting me and pressuring me to help him fill these prescriptions. In another, conversation, he even produced copies "California law" trying to convince me to join their perfectly legal operation. They even gave me names and phone numbers to other pharmacist who were doing business with them without incident as a part of their carefully scripted confidence plot.

These internet guys singled me out, knew exactly what position I was in as a new business owner, probably targeted my name, and knew how to prey on my weaknesses. Given the huge debt and the burden of the overhead cost of running the my own pharmacy business, I finally accepted his offer to begin filling prescriptions for them, even though I didn't feel entirely comfortable with this business scheme. I called and confirmed that these were legitimate prescription from a licensed physician. I spoke with the physicians. The physicians told me they were merely authorizing refills for their pain clinic and that they were operating under the

Albert Wong

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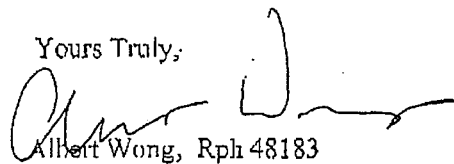
"telemedicine" regulation. As a new business owner, I didn't have the resources to hire an attorney to review the legal matters given to me. These prescriptions would be sent to me via FedEx on a daily basis and upon filling the prescriptions I would FedEx it the patients. Furthermore, I felt more reassured that this process was "legal" since my wholesaler placed our store under review for increased in purchasing of these controlled substances and even they kept approving my ordering. The incentives to fill prescription were just like any other third party plan. The average compensation was approximately \$20 per script. I filled on average 14 scripts per month for Advance Medical for about 13 months to California residents.

As it turns out, this business scheme is illegal and we all now know it was not what these unscrupulous predators or slick internet businessmen represented it to be. Specifically, from 1/22/2008 to 3/9/2009, The Medicine Shoppe furnished 186 controlled substance/dangerous drug prescriptions to California residents pursuant to prescriptions issued via the Internet which were obtained without a good faith prior examination. This was in violation of Business and Professional code 4067. After I was cited for this, I felt that I had betrayed my profession and decided voluntarily to close down my pharmacy.

My participation in this internet scheme has tarnished my reputation as a pharmacist. I have lost face among my colleagues. My family has suffered as a result of this incident, both financially and emotionally. Financially, we had to pay huge sums to the landlord from a civil settlement for the early termination of the lease. In addition, I have also incurred huge attorney's fee in the process, and payment of civil penalties to the Board of Pharmacy. Currently, I am still civilly liable to the Medicine Shoppe for the early breach of the franchise contract. Emotionally, my family has been mortified by this whole incident as we never had any kind of trouble with the law. For the public health, I have endangered people's lives by filling prescriptions without a good faith examination and I have tarnished the reputation of our profession as "one of the most trusted professions."

(Given the benefit of hindsight, I should not have ventured into my own business nor trusted this business proposition without obtaining independent legal and accounting advice. I certainly recommend everyone to trust their own instincts; if you don't feel comfortable with filling a prescription, do not fill it. As a new pharmacist or even an experienced pharmacist like me, you must be very careful and only take advice from trusted professionals who have your best interest at heart and not strangers who come to you with a quick fix solution that they swear on their life is "legal" and "everyone else is filling internet prescriptions." This is the "trap" to be avoided at all cost.

Yours Truly,



Albert Wong, Rph 48183

The Medicine Shoppe, Phy 48384

2/29/12